

AMENDMENTS TO THE DRAWINGS

The sheets of drawings submitted herewith include changes to Figures 1-8. These sheets replace the original sheets of drawings including Figures 1-8.

Appendix: Replacement sheets (8 sheets, 8 figures)

REMARKS**Status of the Claims**

Claims 1-28 are currently pending in this application.

In this response, claims 4, 6, 7, 12-14, 17, and 19 have been canceled without prejudice or disclaimer, and claims 1, 3, 5, 8-10, 15, 18, 20, and 22-28 have been amended to address some of the antecedent basis problems raised in the Office action and to clarify the invention. Support for the amendment is found throughout the application as filed (published as WO 2005/030361), for example, at page 4, line 31 – page 5, line 2, in Figures 1-5, and in the original claims 3, 7, 10 and 17. No new matter has been added. Upon entry of the amendment, claims 1-3, 5, 8-11, 15, 16, 18 and 20-28 will be pending and subject to further examination. Entry of the amendment and reconsideration on the merits in view of the following comments are respectfully requested.

Objections to the Drawings

Replacement drawings in compliance with 37 CFR 1.84 and 37 CFR 1.121(d) are required. Specifically, the drawings are corrected so as to show every feature of the invention specified in the claims in compliance with 37 CFR 1.83(a). The labeling of the different views contained in Figures 1-5 is corrected so as to be in compliance with 37 CFR 1.84(u). In addition, the numbers, letters, and reference characters contained in Figures 1-8 are corrected so as to be at least 1/8 inch in height in compliance with 37 CFR 1.84(p)(3). All sectional views are corrected in accordance with 37 CFR 1.84(h)(3). Finally, the specification is amended so as to ensure a proper one-to-one correspondence between the specification and drawings in accordance with MPEP 608.01(g) and 37 CFR 1.84(f). The enclosed replacement drawings correct these informalities.

Submitted herewith is a complete set of replacement drawings (8 sheets, 8 figures). The undersigned hereby states that no new matter has been added. Please substitute the enclosed drawings for the previously submitted drawings.

Objections to the Specification

The Office objects that the present application does not contain an abstract of the disclosure as required by 37 C.F.R. 1.72(b). The Office notes that the PCT abstract is not considered an abstract on a separate sheet for IFW purposes. Filed herewith is a replacement paragraph that substitutes for the PCT abstract filed with the original specification.

The Office further objects that the title of the invention is not sufficiently descriptive. Per the Office's recommendation, the title has been amended herein to mention the movable collection assembly recited in the claims.

Rejections under 35 U.S.C. § 112, ¶ 2

Claims 1-28 are rejected under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. More specifically, the Office alleges that the claims are replete with terms that lack consistent terminology and that lack antecedent basis. In claim 1, “the annular columns” allegedly lacks antecedent basis and conflicts with the previously recited “annular rings”; in claim 9, “the container” allegedly lacks antecedent basis; in claim 10, “the collecting conduit” allegedly lacks antecedent basis; and in claim 25, “the means of detection” allegedly lacks antecedent basis.

This rejection is rendered moot by the amendment of claims 1, 9, 10, and 25. In addition, Applicant has reviewed the remaining claims and attended to any outstanding antecedent basis issues. Accordingly, it is respectfully submitted that this rejection may properly be withdrawn.

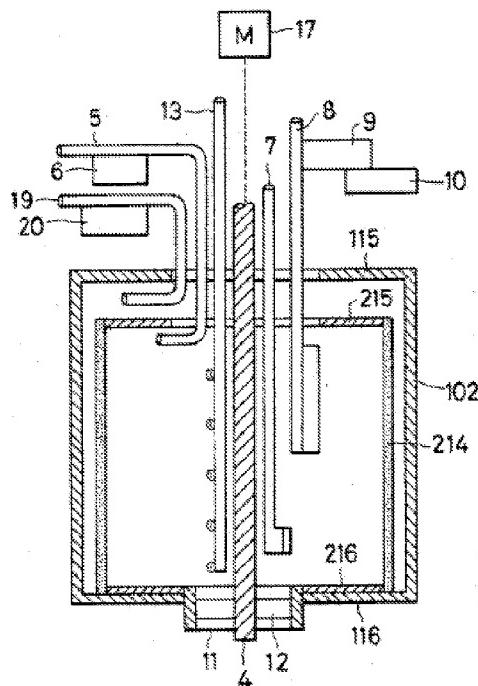
Rejections under 35 U.S.C. § 102

Anticipation by Funabashi

Claims 1-2, 5-7, and 12-21 are rejected under 35 U.S.C. § 102(b) as allegedly being anticipated by Funabashi *et al.* (US 4,543,085, “Funabashi”).

The Office alleges that Funabashi discloses a separating apparatus in Fig. 3 as depicted below and a method including a circular bowl 102 and/or 214 rotatable about a central axis and having an opening within 115 and 215 through which the mixture is introduced into the bowl, whereby the rotation of the bowl separates the mixture to form annular rings of the discrete density phases, and a collection assembly 5 and/or 19 for removing the separated discrete density phases, wherein the collection assembly is movable with respect to the bowl via drive 6 or drive 20 such that the collection assembly can be positioned in the bowl to sequentially selectively and individually remove the annular columns from the bowl while the bowl is rotating substantially without disturbing the remaining annular columns within the bowl; wherein the collection assembly is positioned proximal to a surface of the annular column closest to the central axis during removal of the annular column; wherein the collection conduit 5 or 19 is arranged such that the end of the collection conduit extends substantially perpendicular to the central axis of the bowl (Fig. 3); wherein the mixture is introduced into the bowl by means of a delivery conduit 7 inserted into the bowl through the opening of the bowl; wherein a cleaning conduit 13 is inserted into the bowl through the opening to introduce a cleaning solution to the bowl after the separated multiphase mixture is removed from the bowl; the method disclosed at col. 3, line 33 - col. 4, line 25.

FIG. 3



As an initial matter, claims 1 and 15 have been amended to clarify that the collection assembly comprises three individual conduits: a collection conduit for removing the annular columns, a waste collecting conduit, and a cleaning conduit. Further, claims 1 and 15 have been amended to specify that the collection assembly is movable as a single unit with respect to the bowl. As noted above, support for the amendment is found throughout the application as filed (published as WO 2005/030361), for example, at page 4, line 31 – page 5, line 2, in Figures 1-5, and in the original claims 3, 7, 10 and 17. All the remaining claims incorporate the new limitations by virtue of being dependent on claim 1 or claim 15.

The legal standard for anticipation under 35 U.S.C. § 102 is one of strict identity. *Trintec Industries, Inc. v. Top-U.S.A. Corp.*, 63 U.S.P.Q.2d 1597 (Fed. Cir. 2002). “[A]n invention is anticipated if the same device, including all the claim limitations, is shown in a single prior art reference. Every element of the claimed invention must be literally present, arranged as in the claim.” *Richardson v. Suzuki Motor Co.*, 868 F.2d 1226, 1236, 9 USPQ2d 1913, 1920 (Fed. Cir. 1989) (emphasis added). “[U]nless a reference discloses within the four corners of the document

not only all of the limitations claimed but also all of the limitations arranged or combined in the same way as recited in the claim, it cannot be said to prove prior invention of the thing claimed and, thus, cannot anticipate under 35 U.S.C. § 102.” *Net MoneyIN, Inc. v. VeriSign, Inc.*, No. 2007-1565 at 17-18 (Fed. Cir. Oct. 20, 2008) (emphasis added).

A careful review of Funabashi reveals that this patent discloses, *inter alia*, a delivery pipe 7; a liquid discharge pipe 5 that is movable with respect to an inner vessel 200 using a driving device 6; a filtrate discharge pipe 19 that is movable with respect to an outer vessel 100 using a driving device 20; and a washing pipe 13 that is static with respect to the inner and outer vessels 200 and 100 (*see* Fig. 3 and accompanying description at col. 3, lines 1-32). If we assume, *arguendo*, that the pipes 5, 19 and 13 of Funabashi correspond to the collection conduit, the waste collecting conduit, and the cleaning conduit of the present invention, it is apparent that the three conduits are not arranged into an integral collection assembly that is movable with respect to the bowl as a single unit. Indeed, Funabashi’s design expressly requires that the liquid discharge pipe 5 and the filtrate discharge pipe 19 be able to move independently in order to accomplish their respective purposes. Furthermore, the washing pipe 13 of Funabashi is supposed to remain fixed in place and thus cannot be said to be a part of a movable assembly.

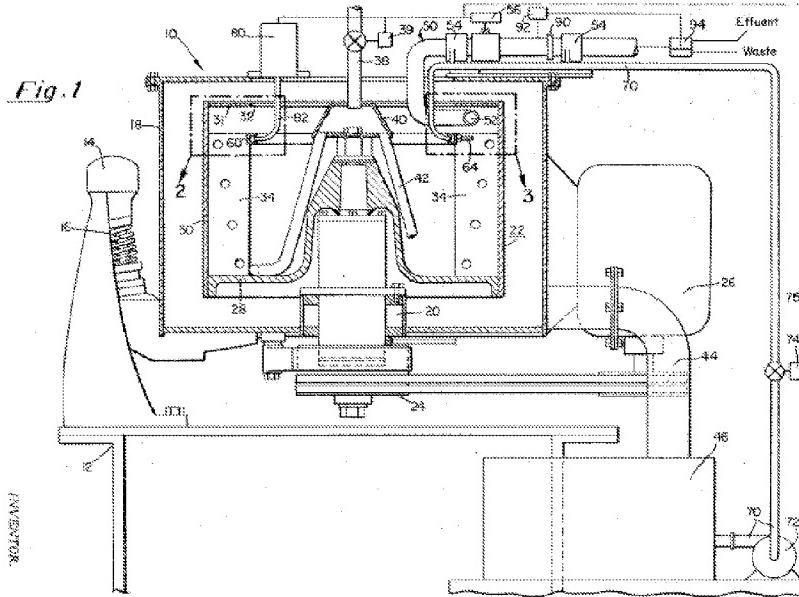
Because Funabashi clearly fails to disclose each and every element of the claimed invention, arranged as in the claims, it is respectfully submitted that this rejection under 35 U.S.C. § 102(b) has been overcome and may properly be withdrawn.

Anticipation by Kirkpatrick

Claims 1-6, 8-19, and 21-25 are rejected under 35 U.S.C. § 102(b) as allegedly being anticipated by Kirkpatrick (US 3,570,754).

The Office alleges that Kirkpatrick discloses a separating apparatus as depicted below and a method including a circular bowl 22 rotatable about a central axis and having an opening (proximate 40) through which the mixture is introduced into the bowl, whereby the rotation of the bowl separates the mixture to form annular rings of the discrete density phases, and a collection assembly

50 for removing the separated discrete density phases, wherein the collection assembly is movable with respect to the bowl via drive 56 such that the collection assembly can be positioned in the bowl to sequentially selectively and individually remove the annular columns from the bowl while the bowl is rotating substantially without disturbing the remaining annular columns within the bowl; wherein the collection assembly is positioned proximal to a surface of the annular column closest to the central axis during removal of the annular column; wherein the collection assembly has a collection conduit 52 for collecting at least one annular column inserted into the bowl through the opening and a pump 72; wherein the flow rate of the collection of the annular column from the surface of the annular column is at least the flow rate at which an equivalent volume within the annular column is presented for collection; wherein the collection conduit 52 is arranged such that the end of the collection conduit extends substantially perpendicular to the central axis of the bowl (Fig. 1); wherein the mixture is introduced into the bowl by means of a delivery conduit 38 inserted into the bowl through the opening of the bowl; wherein the introduction of the multiphase mixture into the bowl is by introduction of introducing the separate components of the mixture separately into the bowl, and the bowl includes a means 34 for agitating and mixing the separate components in the bowl to form a mixture; wherein the means for agitating and mixing the mixture is baffles 34 positioned in the container (Fig. 1); wherein the collecting assembly further includes a waste collecting conduit (proximate 94 in Fig. 1) and a means 60, 80 for identifying the discrete density media or boundary layers formed thereby, and a means 56 to control the movement of the collection assembly such that the movement of the removal means is controllable to allow for the sequential removal from the bowl of each discrete density media by either the collecting conduit or waste collecting conduit; wherein the means for identifying the discrete density media is selected from optical, spectral, electrical conductivity or rheostatic analysis of the discrete density media; the method disclosed at col. 3, line 61 - col. 5, line 29. The Office further alleges that Kirkpatrick explicitly teaches a multiphase mixture at col. 5, lines 1-29.



As noted above, claims 1 and 15 have been amended to specify that the collection assembly comprises three individual conduits: a collection conduit for removing the annular columns, a waste collecting conduit, and a cleaning conduit, and that that the collection assembly is movable as a single unit with respect to the bowl.

A careful review of Kirkpatrick reveals that this patent discloses, *inter alia*, a feed tube 38 in fluid communication with a feed receiving cup 40 and a plurality of feed conduits 42; an effluent outlet conduit 44 leading to an effluent tank 46; and a skimming device 50 that is movable with respect to a bowl 22 using a drive means 56. If we assume, *arguendo*, that the effluent outlet conduit 44 and the skimming device 50 of Kirkpatrick correspond to the collection conduit and the waste collecting conduit of the present invention, it is apparent that (1) the entire apparatus is lacking a cleaning conduit, and (2) the three conduits are not arranged into an integral collection assembly that is movable with respect to the bowl as a single unit.

Because Kirkpatrick clearly fails to disclose each and every element of the claimed invention, arranged as in the claims, it is respectfully submitted that this rejection under 35 U.S.C. § 102(b) has been overcome and may properly be withdrawn.

Anticipation by Büttner

Claims 1-6, 10-19, 21, 24, and 25 are rejected under 35 U.S.C. § 102(b) as allegedly being anticipated by Büttner *et al.* (US 5,090,953, “Büttner”).

The Office alleges that Büttner discloses a separating apparatus as depicted below and a method including a circular bowl 11 rotatable about a central axis and having an opening (proximate 10) through which the mixture is introduced into the bowl, whereby the rotation of the bowl separates the mixture to form annular rings 20 and 40 of the discrete density phases, and a collection assembly 54 for removing the separated discrete density phases, wherein the collection assembly is movable with respect to the bowl via drive 55 such that the collection assembly can be positioned in the bowl to sequentially selectively and individually remove the annular columns from the bowl while the bowl is rotating substantially without disturbing the remaining annular columns within the bowl; wherein the collection assembly is positioned proximal to a surface of the annular column closest to the central axis during removal of the annular column (Fig. 1); wherein the collection assembly has a collection conduit 50 for collecting at least one annular column inserted into the bowl through the opening and a pump 59; wherein the flow rate of the collection of the annular column from the surface of the annular column is at least the flow rate at which an equivalent volume within the annular column is presented for collection; wherein the collection conduit 50 is arranged such that the end of the collection conduit extends substantially perpendicular to the central axis of the bowl (Fig. 1); wherein the mixture is introduced into the bowl by means of a delivery conduit 10 inserted into the bowl through the opening of the bowl; wherein the introduction of the multiphase mixture into the bowl is by introduction of introducing the separate components of the mixture separately into the bowl, wherein the collecting assembly includes a collecting conduit 54 capable of discharging waste material and a means 60 for identifying the discrete density media or boundary layers formed thereby, and a means 55 to control the movement of the collection assembly such that the movement of the removal means is controllable to allow for the sequential removal from the bowl of each discrete density media by either the collecting conduit or waste collecting conduit; wherein the means for identifying the discrete density media is selected from optical, spectral, electrical conductivity or rheostatic analysis of the discrete density media (see col.

4, lines 40-42 that references cited US Patent No. 4,900,453 with this '453 patent teaching the sensor in the form of an electrical conductivity sensor at col. 2, lines 40-41); the method disclosed at col. 4, line 34 - col. 5, line 30.

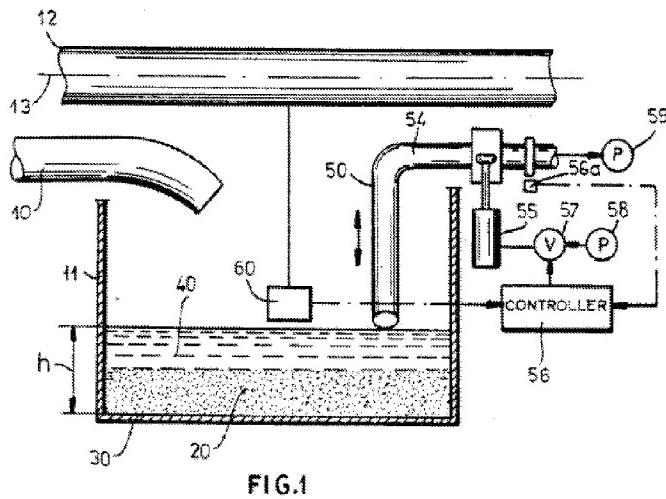


FIG.1

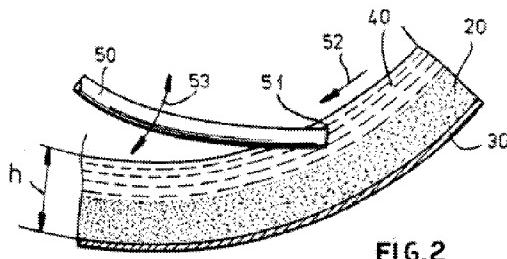


FIG.2

As noted above, claims 1 and 15 have been amended to specify that the collection assembly comprises three individual conduits: a collection conduit for removing the annular columns, a waste collecting conduit, and a cleaning conduit, and that the collection assembly is movable as a single unit with respect to the bowl.

A careful review of Büttner reveals that this patent discloses, *inter alia*, a filling pipe 10 and a liquid scooping tube 50 that is movable with respect to a drum 11 using a drive 55. If we assume, *arguendo*, that the liquid scooping tube 50 of Büttner corresponds to the collection conduit and of the present invention, it is apparent that (1) the entire apparatus is lacking a waste collecting conduit

and a cleaning conduit, and (2) the three conduits are not arranged into an integral collection assembly that is movable with respect to the bowl as a single unit.

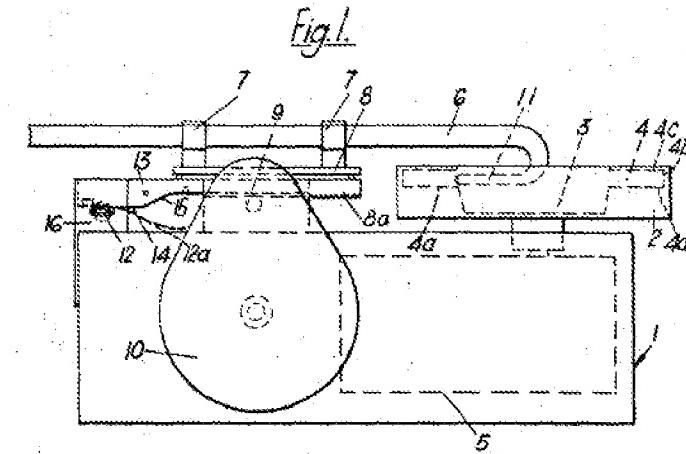
Because Büttner clearly fails to disclose each and every element of the claimed invention, arranged as in the claims, it is respectfully submitted that this rejection under 35 U.S.C. § 102(b) has been overcome and may properly be withdrawn.

Anticipation by Wheelock

Claims 1-28 are rejected under 35 U.S.C. § 102(b) as allegedly being anticipated by *Wheelock et al.* (US 3,428,249, “Wheelock”) per the European Search Report of December 2, 2008.

Wheelock discloses a centrifuge used in separating a mixture of substances in a fluid state which includes a spinning basin in which the mixture to be treated is poured and then separated into strata by centrifugal force for decanting as the basin rotates.

As can be seen from Figs. 1 and 2 and the accompanying description at col. 3, lines 13-27 of Wheelock, the disclosed centrifuge includes a rigid duct 6 that is mounted externally of a basin 2 in spring clips 7 carried on a chassis 8, the chassis being provided with a toothed rack 8a associated with a driven pinion 9 to effect reciprocation of the duct 6. A reversible synchronous motor 10 is used to rotate the pinion although the duct may be reciprocated manually through the intermediary of the pinion, a shaft to which the pinion is fixed and a handle secured to the shaft. The duct 6 is extended into a terminal scoop 11 by returning the end under the duct 6 and then slightly offsetting it so that when the duct 6 is moved to the left as viewed in Fig. 2 the open end of the scoop is set to move in a substantially radial path with respect to the chamber 4 in a plane near to the floor level of the chamber.



Thus, Wheelock discloses an apparatus having a collection assembly comprising a single conduit 6+11 for removing different strata of the mixture from the basin 2 as the duct 6 traverses the liquid radially. Much like Büttner, Wheelock does not disclose a collection assembly comprising three separate conduits for collecting annular columns, removing waste and cleaning the bowl, as claimed in the amended claims 1 and 15. Furthermore, the three conduits are not arranged into an integral collection assembly that is movable with respect to the bowl as a single unit.

Because Wheelock clearly fails to disclose each and every element of the claimed invention, arranged as in the claims, it is respectfully submitted that this rejection under 35 U.S.C. § 102(b) has been overcome and may properly be withdrawn.

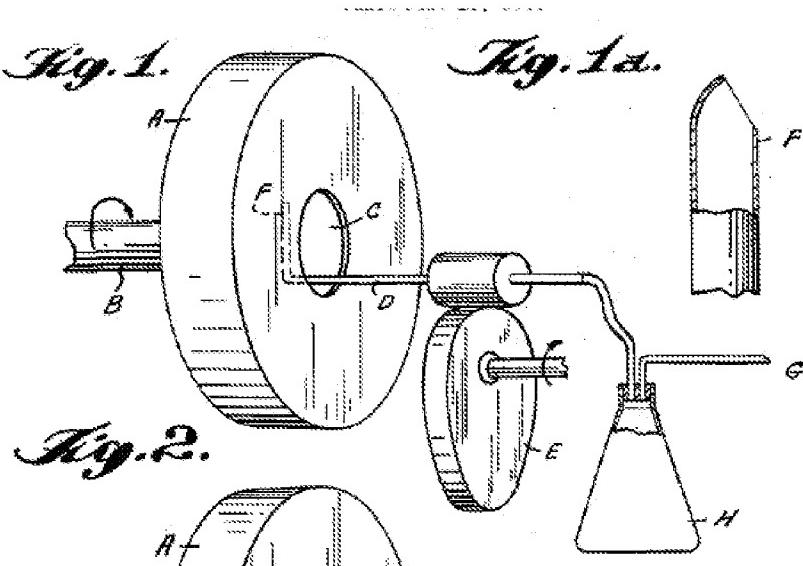
Anticipation by Atherton

Claims 1-28 are rejected under 35 U.S.C. § 102(b) as allegedly being anticipated by Atherton *et al.* (US 3,243,106, “Atherton”) per the European Search Report of December 2, 2008.

Atherton discloses an apparatus and methods for separating particles in liquid suspensions. The apparatus comprises a centrifuge in the form of a single hollow container rotated about an axis within the boundaries of the container, and having no internal divisions to prevent the introduction of a sampling device, such device being introduced into the container nearer to the axis of rotation than the free surface of the suspension under rotation in the container, the device being capable of

removing liquid from the immediate vicinity of the air-liquid interface and of moving in contact with such interface as it recedes radially due to the removal of liquid, and not being part of, directly attached to, or rotating at the same speed as the rotating container or rotor.

As can be seen from Fig. 1 and the accompanying description in Example 1 (col. 4, line 58 through col. 5, line 5) of Atherton, the disclosed apparatus comprises a container in the form of a hollow disc A, which is attached to a horizontal shaft B of an electric motor and rotated at uniform speed. In one face of the disc, an aperture C allows the particle suspension or other liquid to be injected into the disc (or rotor) and also allows entry for a sampling probe D, which is a thin walled steel tube bent so that a portion at the end is parallel to a radius of the disc. By means of a cam E, acting on the holder of the probe, the probe may be moved inside the hollow disc to contact the liquid surface. The extreme end of the probe is bent and cut off at an angle, and sharpened as in detail F (Fig. 1a) to enable it to skim off the surface layers of liquid in the rotor, which liquid is removed from the probe by suction at G, and transferred to a suitable collecting vessel H. As the probe advances into the rotor, liquid is progressively removed without disturbance to the underlying liquid, the desirable decreasing rate of advance being given by forming a suitable profile on cam E.



Thus, Atherton also discloses an apparatus having a collection assembly comprising a single conduit D+F for removing different strata of the mixture from the hollow disc A as the probe D

advances into the rotor. Much like Büttner and Wheelock, Atherton does not disclose a collection assembly comprising three separate conduits for collecting annular columns, removing waste and cleaning the bowl, as claimed in the amended claims 1 and 15. Furthermore, the three conduits are not arranged into an integral collection assembly that is movable with respect to the bowl as a single unit.

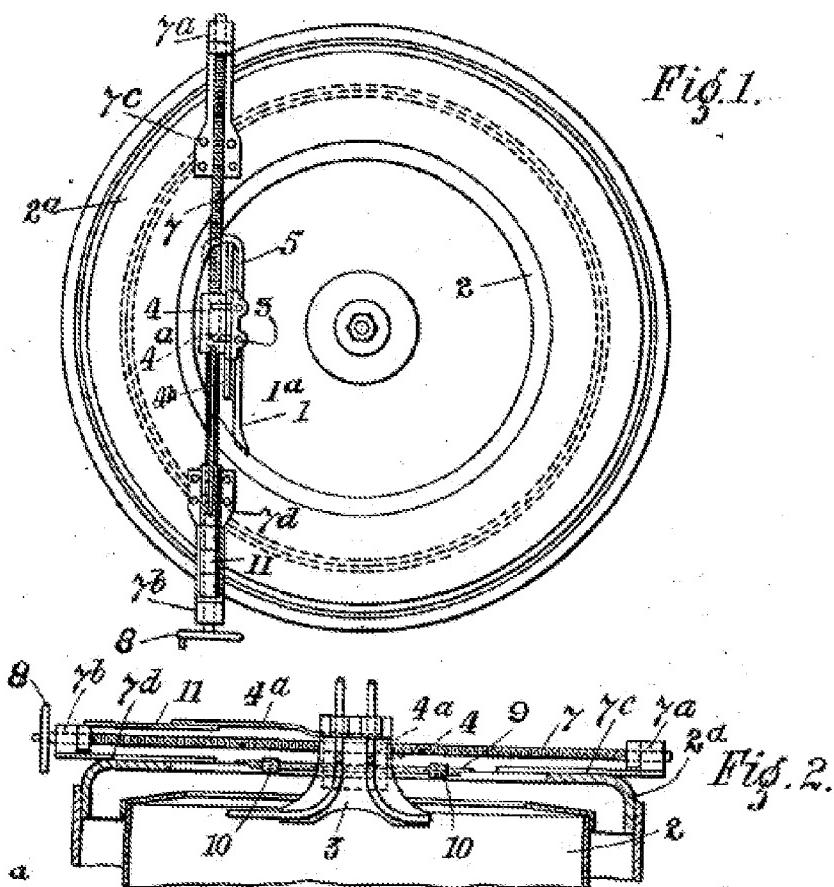
Because Atherton clearly fails to disclose each and every element of the claimed invention, arranged as in the claims, it is respectfully submitted that this rejection under 35 U.S.C. § 102(b) has been overcome and may properly be withdrawn.

Anticipation by Millar

Claims 1-28 are rejected under 35 U.S.C. § 102(b) as allegedly being anticipated by Millar (US 2,154,134) per the European Search Report of December 2, 2008.

Millar discloses a centrifugal apparatus for collecting a liquid, such as yeast extract, which is normally prone to frothing, without the formation of froth. As can be seen from Figs. 1 and 2 and the accompanying description at col. 1, line 50 – col. 3, line 36, the disclosed apparatus comprises two collectors 1 and 5 for removing froth-prone liquid and insoluble sediment or sludge, respectively.

The collectors 1 and 5 are kept submerged in the liquid during collection by screw control gear consisting of a screw 7, a bracket carrying member 4, which engages the screw, and an operating wheel 8. By this arrangement, the bracket carrying member 4 can be moved to keep the collecting edge or mouth of the collector 1 submerged in the liquid to give sharp separation and to take only clear or separated liquid. The bracket 4 can be moved to keep the collecting edge or mouth of the sludge or sediment collector 5 immersed in the sludge or sediment after the clear or separated liquid has been collected. When the screw 7 is turned in one direction, the collector 1 is moved into collecting position, at the same time taking the collector 5 out of action and clear of the liquid spinning in the centrifuge.



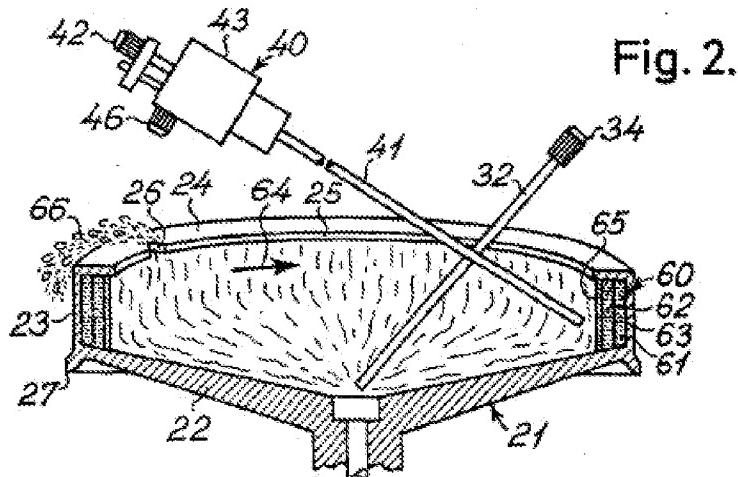
Based on the foregoing, Millar discloses an apparatus having a collection assembly comprising two conduits 1 and 5 for removing froth-prone liquid and insoluble sediment or sludge, respectively. If we assume, *arguendo*, that the collector 5 of Millar is equivalent to the waste collecting conduit of the present invention, it is apparent that Millar does not disclose a collection assembly comprising three separate conduits for collecting annular columns, removing waste and cleaning the bowl, as presently claimed. Furthermore, the three conduits are not arranged into an integral collection assembly that is movable with respect to the bowl as a single unit.

Because Millar clearly fails to disclose each and every element of the claimed invention, arranged as in the claims, it is respectfully submitted that this rejection under 35 U.S.C. § 102(b) has been overcome and may properly be withdrawn.

Anticipation by Spinell

Claims 1-28 are rejected under 35 U.S.C. § 102(b) as allegedly being anticipated by Spinell *et al.* (US 4,591,445, “Spinell”) per the European Search Report of December 2, 2008.

Spinell discloses a device and method for separating bacteria from a bacteria containing liquid sample based on the principles of density gradient separation. As can be seen from Fig. 2 and the accompanying description at col. 6, lines 8-54 and col. 7, lines 13-53, the disclosed apparatus comprises a suction pipette 40 having a pipette housing 43 and a pipette tube 41, which extends through an opening 25 of a centrifuge container 21 into the interior thereof. The apparatus further comprises a supply tube 32 for supplying a liquid sample, which also extends through the opening 25 into the interior of the centrifuge container 21 and is adapted to be connected to an external liquid sample container (not shown) through a connecting fitting 34.



Since the supply tube 32 of Spinell corresponds to the delivery conduit of the present invention, the pipette tube 41 clearly constitutes a single collection conduit, similar to the collection conduits of Büttner, Wheelock, and Atherton. Thus, much like Büttner, Wheelock, and Atherton, Spinell fails to disclose a waste collecting conduit and a cleaning conduit, as required by the presently amended claims. Furthermore, the three conduits are not arranged into an integral collection assembly that is movable with respect to the bowl as a single unit.

Because Spinell clearly fails to disclose each and every element of the claimed invention, arranged as in the claims, it is respectfully submitted that this rejection under 35 U.S.C. § 102(b) has been overcome and may properly be withdrawn.

Rejection under 35 U.S.C. § 103

Claims 26-28 are rejected under 35 U.S.C. § 103(a) as allegedly being unpatentable over Funabashi, Kirkpatrick, or Büttner in view of Beritashvili *et al.* (US 5,610,074, “Beritashvili”).

The Office acknowledges that Funabashi, Kirkpatrick, or Büttner do not disclose the recited materials being separated in method claims 26-28. To cure this deficiency of Funabashi, Kirkpatrick, or Büttner, the Office cites Beritashvili, which allegedly discloses a separating apparatus and method that employs the recited nucleic acids and/or cellular material therein. The Office argues that it would have been obvious to one having ordinary skill in the art, at the time applicant’s invention was made, to have employed the substances recited in claims 26-28 in the methods of Funabashi, Kirkpatrick, or Büttner for the purposes of isolating nucleic materials from a sample liquid (col. 1, lines 26-50 and col. 2, lines 44-53).

The obviousness analysis under 35 U.S.C. § 103(a) requires the consideration of the scope and content of the prior art, the level of skill in the relevant art, and the differences between the prior art and the claimed subject matter must be considered. *KSR Int’l Co. v. Teleflex Inc.*, 127 S.Ct. 1727 (2007) (*citing Graham v. John Deere Co.*, 383 U.S. 1, 17 (1966)). Rejections on obviousness grounds cannot be sustained by mere conclusory statements. *In re Kahn*, 441 F.3d 977, 987-88 (Fed. Cir. 2007). Critical elements of the invention as a whole which clearly distinguish the entire invention from the prior art references cannot be ignored. *Panduit Corp. v. Dennison Manufacturing Co.*, 1 U.S.P.Q.2d 1593, 1597 (Fed. Cir.), *cert. denied*, 481 U.S. 1052 (1987).

As discussed above, none of Funabashi, Kirkpatrick, and Büttner discloses each and every element of the claimed invention, arranged as in the amended claims 1 and 15. A careful review of Beritashvili reveals that this patent fails to provide any disclosure that would compensate for the fatal deficiencies of Funabashi, Kirkpatrick, and Büttner. Because the combination of Funabashi,

Kirkpatrick, or Büttner with Beritashvili fails to disclose each and every element of the claimed invention, arranged as in the claims, it is respectfully submitted that this rejection under 35 U.S.C. § 103(a) has been overcome and may properly be withdrawn.

In view of the above, each of the presently pending claims in this application is believed to be in immediate condition for allowance. Accordingly, the Examiner is respectfully requested to withdraw the outstanding rejection of the claims and to pass this application to issue. If it is determined that a telephone conference would expedite the prosecution of this application, the Examiner is invited to telephone the undersigned at the number given below.

In the event the U.S. Patent and Trademark office determines that an extension and/or other relief is required, applicant petitions for any required relief including extensions of time and authorizes the Commissioner to charge the cost of such petitions and/or other fees due in connection with the filing of this document to **Deposit Account No. 03-1952** referencing docket No. 514572004500. However, the Commissioner is not authorized to charge the cost of the issue fee to the Deposit Account.

Dated: June 29, 2010

Respectfully submitted,

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